

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTSFILED  
U.S. DISTRICT COURT  
CLERK'S OFFICE

JUL 23 2004 P 12:49

04 11646 MDW DISTRICT COURT  
CLERK'S OFFICE MASSACHUSETTS

TABITHA ROWLAND, ) CIVIL ACTION NO.

ADMINISTRATRIX OF THE )

ESTATE OF DANNY TYSON WRIGHT )

Plaintiff )

v. )

MAGISTRATE JUDGE Maulev

COMPLAINT

RECEIPT #

AMOUNT \$ 111SUMMONS ISSUED Y

LOCAL RULE 4.1

WAIVER FORM

MCF ISSUED

BY DPTY. CLK. FORMDATE 01/23/04PARTIES

1. The plaintiff, Tabitha Rowland, is a resident of Forest, Virginia and is the duly appointed Administratrix of the Estate of Danny Tyson Wright.
2. The defendant, Eagle Eye Fishing Corporation, at all material times, owned, operated and/or controlled the F/V Eagle Eye, has a usual place of business at 240 Causeway Avenue, Lawrence, NY 11559, and regularly does business in the Commonwealth of Massachusetts.

JURISDICTION

3. This is a case of maritime jurisdiction pursuant to 28 U.S.C. §1333. Jurisdiction is also based on diversity of citizenship pursuant to 28 U.S.C. § 1332(a). The matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. § 1332.

FACTUAL ALLEGATIONS

4. On or about March 12, 2002, the plaintiffs' decedent, Danny Tyson Wright, was in the

employ of the defendant as a seaman and a member of the crew of the F/V Eagle Eye.

While the F/V Eagle Eye was in navigable waters, moored within the territorial waters of Puerto Rico, and while the decedent, Danny Tyson Wright, was in the exercise of due care and in the performance of his duties, he sustained severe and painful injuries when he was stabbed by fellow crewmember Kevin Dillon, A.K.A. "Jerome," and subsequently expired.

**COUNT I**

(Tabitha Rowland, Administratrix of the Estate of Danny  
Tyson Wright v. Eagle Eye Fishing Corporation,  
Negligence – Jones Act)

5. Paragraphs 1-4 are adopted by reference.
6. The injuries and pain and suffering sustained by the plaintiff's decedent were not caused by any fault on his part, but were caused by the fault of the defendant, its agents, or servants, as follows:
  - a) Failure to use due care to provide and maintain a seaworthy vessel with safe and proper appliances;
  - b) Failure to use due care to make reasonable and periodic inspection of said vessel, its equipment and appliances;
  - c) Failure to use due care to furnish the plaintiff with a reasonably safe place in which to perform his work;
  - d) Failure and negligence of fellow employees;
  - e) Failure and negligence in other respects that will be shown at the trial.

7. As a result of the said injuries, the plaintiff's decedent suffered great pain of body and anguish of mind, and other damages as will be shown at the trial.
8. This count is brought pursuant to the Jones Act, codified at 46 U.S.C. App. §688.

**REQUEST FOR RELIEF**

WHEREFORE, the plaintiff demands as follows:

1. That this court enter judgment in plaintiff's favor in the amount of their damages including pain and suffering against this defendant plus interest and costs.
2. For such other and further relief as the court deems appropriate.

**COUNT II**

(Tabitha Rowland, Administratrix of the Estate of Danny  
Tyson Wright v. Eagle Eye Fishing Corporation,  
Wrongful Death – Jones Act)

9. Paragraphs 1-8 are adopted by reference.
10. The injuries and subsequent death sustained by the plaintiff's decedent were not caused by any fault on his part, but were caused by the fault of the defendant, its agents, or servants, as follows:
  - a) Failure to use due care to provide and maintain a seaworthy vessel with safe and proper appliances;
  - b) Failure to use due care to make reasonable and periodic inspection of said vessel, its equipment and appliances;
  - c) Failure to use due care to furnish the plaintiff with a reasonably safe place in which to perform his work;
  - d) Failure and negligence of fellow employees;

- e) Failure and negligence in other respects that will be shown at the trial.

11. As a result of the said injuries, the plaintiff's decedent suffered great pain of body and anguish of mind and said injuries led directly to his death.
12. This count is brought pursuant to the Jones Act, codified at 46 U.S.C. App. §688.

**REQUEST FOR RELIEF**

WHEREFORE, the plaintiff demands as follows:

1. That this court enter judgment in plaintiff's favor in the amount of their damages against this defendant plus interest and costs.
2. For such other and further relief as the court deems appropriate.

**COUNT III**

(Tabitha Rowland, Administratrix of the Estate of Danny Tyson  
Wright v. Eagle Eye Fishing Corporation Unseaworthiness – General Maritime Law)

13. Paragraphs 1-12 are adopted by reference.
14. The injuries and pain and suffering sustained by the plaintiff's decedent were due to no fault of his own, but were caused by the unseaworthiness of the defendant's vessel, its appliances, appurtenances, and equipment.
15. As a result of the said injuries, plaintiff's decedent suffered great pain of body and anguish of mind and suffered other damages as will be shown at trial.
16. This count is brought pursuant to the General Maritime Law.

**REQUEST FOR RELIEF**

WHEREFORE, the plaintiffs demand as follows:

1. That this court enter judgment in plaintiff's favor in the amount of their damages against this defendant plus interest and costs.

2. For such other and further relief as the court deems appropriate.

**COUNT IV**

(Tabitha Rowland, Administratrix of the Estate of Danny Tyson  
Wright v. Eagle Eye Fishing Corporation Wrongful Death – General Maritime Law)

17. Paragraphs 1-16 are adopted by reference.
18. The injuries and subsequent death sustained by the plaintiff's decedent were due to no fault of his own, but were caused by the unseaworthiness of the defendant's vessel, its appliances, appurtenances, and equipment.
19. As a result of the said injuries, plaintiff's decedent suffered great pain of body and anguish of mind and the said injuries led directly to his death.
20. This count is brought pursuant to the General Maritime Law.

**REQUEST FOR RELIEF**

WHEREFORE, the plaintiffs demand as follows:

1. That this court enter judgment in plaintiff's favor in the amount of their damages against this defendant plus interest and costs.
2. For such other and further relief as the court deems appropriate.

**COUNT V**

(Tabitha Rowland, Administratrix of the Estate of Danny Tyson  
Wright v. Eagle Eye Fishing Corporation Maintenance and Cure)

21. Paragraphs 1-20 are adopted by reference.
22. As a result of his injuries and subsequent death, the plaintiff's decedent incurred expenses for his maintenance and cure to his damage.

**REQUEST FOR RELIEF**

WHEREFORE, the plaintiffs demand as follows:

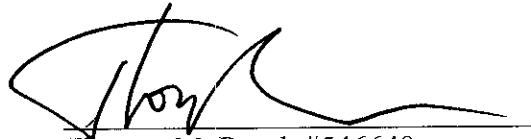
1. That this court enter judgment in plaintiff's favor in the amount of their damages

against this defendant plus interest and costs.

For such other and further relief as the court deems appropriate.

**PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS.**

Respectfully submitted  
By their attorney



Thomas M. Bond, #546649  
THE KAPLAN/BOND GROUP  
Boston Fish Pier  
West Building - Suite 304  
Boston, MA 02205-1404  
617 261-0080

Dated: 7/22/04

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM).

## I. (a) PLAINTIFFS

Tabitha Rowland,  
Administratrix of the Estate  
of Danny Tyson Wright

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Bedford, VA  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
THOMAS M. BOND  
Kaplan Bond Group  
Boston Fish Pier, West Building, Suite 300  
Boston, MA 02210 Tel. 617-261-0080

## II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)  
 2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <b>XX 340 Marine</b> <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury -- Med. Malpractice <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609	<b>FEDERAL TAX SUITS</b>

## V. ORIGIN

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Magistrate Judgment

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.  
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Negligence, Wrongful Death, 46 U.S.C. App. sec. 688  
Jurisdiction based on 28 U.S.C. 1333 and 28 U.S.C. 1332

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
 UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:

## JURY DEMAND:

YES  NO

## VIII. RELATED CASE(S) (See instructions): JUDGE DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

7-22-04

FOR OFFICE USE ONLY

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Tabitha Rowland, Administratrix of the Estate of Danny Tyson Wright v. Eagle Eye Fishing Corporation

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES  NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES  NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES  NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES  NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES  NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION  CENTRAL DIVISION  WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION  CENTRAL DIVISION  WESTERN DIVISION

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Thomas M. Bond

ADDRESS Boston Fish Pier, West Building, Suite 304, Boston, MA 02210

TELEPHONE NO. 617-261-0080